

Laws of Interest to Consumers

Information provided below lists various law citations, and you may review the full contents of the statute at www.michie.com under Tennessee jurisdiction. An attorney would be needed to provide accurate interpretation and case law.

Rules and Regulations for Contractor License Law may be reviewed at: <http://www.state.tn.us/sos/rules/0680/0680.htm>; and **Home Improvement** at: <http://www.state.tn.us/sos/rules/0765/0765.htm>

The Board's jurisdiction is covered in the law, rules and regulations. In order to discipline a contractor, they must prove the contractor violated the law under T.C.A. 62-6. The following laws listed are those most frequently violated and the recourse:

T.C.A. §62-6-102(3)(A)(i) outlines the definition of contracting, which states in part:

“Contractor means any person or entity who undertakes, attempts to, or submits a price or bid or offers to construct, supervise, superintend, oversee, schedule, direct, or in any manner assume charge of the construction, alteration, repair, improvement, movement, demolition, putting up, tearing down, or furnishing labor to install material or equipment for any building, highway, road, railroad, sewer, grading, excavation, development, improvement, or any other construction undertaking for which the total cost of the same is \$25,000 or more.”

T.C.A. §62-6-118 Revocation

Should a consumer file suit in any of the courts in the State, part of the decree or judgment may include revocation of license. Therefore, the Board for Licensing Contractors would comply with the civil judgment.

For those who do not want to go through the expense of legal action, but want to report violations and wrong doing of a contractor, they may refer to the Board and under the provisions of Uniform Administrative Procedures Act, Title 4, Chapter 5, the Board may in a hearing of charges, revoke or suspend a license for gross negligence, incompetency, fraud, dishonest dealing and/or misconduct and the contractor's license renewal cannot be held until the contractor is given a hearing before an administrative judge.

The Board cannot provide restitution, award monetary judgments, or make the contractor repair the problem. They may only take discipline against the contractor and this is a lengthy process. Details of an open legal case cannot be released to the public until the case is closed. When a consumer files a complaint which has law violations, the complaint is processed through the legal section and becomes a legal product which remains confidential until the case is closed. If the legal section needs further documentation, they may subpoena or request the consumer to provide testimony.

Our Board does offer consumer mediation through another process called CHAMP (Contractors/Homeowners Accountability Mediation Program) with the Division of Consumer Affairs. Contractors who fail to respond to a complaint are listed on the “Problem Contractor List”.

T.C.A. §62-6-103(5)(b) Recovery of Expenses by Unlicensed Contractor

An unlicensed contractor may not be entitled to the contract price; may be permitted in a court to recover only actual documented expenses, upon showing clear and convincing proof.

T.C.A. §62-6-119 Bid Documents

Many violations occur when submitting bids. This law requires contractors to list their license information, such as name, license number, expiration date and classification, on the outside of the bid envelope. Failure to do so is a violation, and the bid should be rejected. *(Legislation is pending and may soon require the monetary limit to be listed.)*

T.C.A. §62-6-120 Penalties

Any contractor, who contracts without being properly licensed, commits a Class A misdemeanor. In addition, the contractor cannot be awarded the project, participate in any rebidding of the project, and ineligible to receive a license for six (6) months.

Rule 0680-1-.19 Civil Penalties

The Board may assess civil penalties from \$50.00 to \$5,000 per violation of statutes, rules, or orders. T.C.A. §62-6-134, violation of the Consumer Protection Act, authorizes a civil penalty up to \$25,000.

Rule 0680-1.21 Citation Penalties

The Executive Director may issue citations for unlicensed activity, which is also an order to cease and desist, from \$50.00 to \$1,000.00.

T.C.A. §62-6-133 Acts Prohibited by Residential Contractor

A residential contractor cannot have a controlling interest in the lender providing a mortgage loan for home improvement or act as a co-signer. Doing so shall be construed as an unfair or deceptive act or practice, which is a violation of the Tennessee Consumer Protection Act, title 47, chapter 18, and part 1.

Implied Warranty

This law is not part of the Contractor’s Licensing Law; however, many contractors may apply this law when they do not provide a written one year warranty. (You would need to check with an attorney for case law and more information.)

This law is under T.C.A. §47-2-314, titled “Implied Warranty – Merchantability – Usage of trade”.

The Home Improvement Commission

T.C.A. §62-37-101 to §62-37-139 governs the Home Improvement Commission which regulates home improvement projects which range from \$3,000 to less than \$25,000. This law has been adopted by only nine (9) counties: Bradley, Davidson, Hamilton, Haywood, Johnson, Knox, Robertson, Rutherford and Shelby. You may want to encourage your county to adopt this law as a means to further protect your community by requiring all contractors to be licensed, bonded and insured. Please see information on our website which outlines how a county may adopt this requirement.

There are five (5) commission members, appointed by the Governor for four (4) year terms. Three (3) are home improvement contractors and two (2) are public members.

Their statute outlines specific duties of the home improvement contractor, such as, required contract language (section 110); advertising requirements (Rule 0765-1-.04); proof of financial responsibility in the amount of \$10,000, such as a bond (Rule 0765-2-01); and proof of workers' compensation insurance coverage (section 108). Effective July 1, 2007, they must provide proof of general liability insurance with a minimum coverage of \$100,000.

Rules and Regulations for the Home Improvement law are available online at:
<http://www.state.tn.us/sos/rules/0765/0765.htm>

As of June, 2007, legislation is pending with law changes. You may review the Legislature's pending legislation online at: <http://www.legislature.state.tn.us/>

For more information regarding the Board for Licensing Contractors and Home Improvement Commission, please review our website at:
<http://www.state.tn.us/commerce/boards/contractors/index.html>